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February 17, 2015

By E-filing

Hon. Denise L. Cote, U.S.D.J.
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, New York 10007-1312

Re: American University of Antigua - College of Medicine v. Leeward Construction Co., Ltd., Docket No. 1:14-cv-8410-DLC/GWG

Dear :

This firm represents Plaintiff, American University of Antigua – College of Medicine (“AUA”). I write to request an expedited briefing schedule on AUA’s accompanying motion for (i) an order of attachment under Federal Rule of Civil Procedure 64 and C.P.L.R. Articles 62 and 75 attaching Defendant Leeward Construction Company, Ltd.’s (“Leeward”) interest in the Corrected Amended Judgment (the “First Judgment” or “Leeward’s Judgment”), entered on June 11, 2013, in *Leeward Constr. Co. Ltd. v. American University of Antigua – College of Medicine*, Docket No. 1:12-CV-06280 (Kaplan, J.), and the related supersedeas bond and (ii) a preliminary injunction enjoining Leeward from enforcing the First Judgment in violation of its Stay Agreement with AUA dated May 8, 2013 (the “Stay Agreement”).

As more fully set forth in the accompanying Declaration of Leonard A. Sclafani, Esq. and supporting Memorandum of Law, Leeward has ceased doing business, and its only known asset is the First Judgment, which is less in amount than the arbitration award (“Second Award”) in AUA’s favor that AUA has moved to enforce in this action. AUA’s Motion to Enforce the Second Award has been fully briefed and is pending decision by this Court. If Leeward executes on the First Judgment before this Court rules on the merits of AUA’s Motion to Enforce, the proceeds will be dissipated and AUA will lose the ability to set off a judgment in its favor in this action against the First Judgment.

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Enforcement of the First Judgment has been stayed pursuant to a supersedeas bond pending AUA's appeal to the Second Circuit in *Leeward Construction Co. v. American University of Antigua – College of Medicine*, Second Circuit Docket No. 13-1708 ("AUA Appeal"). AUA filed its brief in the AUA Appeal on February 13, 2015. Leeward's brief is due on March 16 and AUA's reply brief on March 30, 2015. At that point the AUA Appeal will be fully briefed.

The stay pending appeal is currently the only thing preventing Leeward from wrongfully seizing AUA's assets. Because the enforcement of the Second Award will entitle AUA to a net award—a net award that the defunct Leeward cannot pay—and considering that AUA still has nearly \$1 million in Construction Defects Counterclaims pending, increasing the amount of an uncollectable award through a successful appeal of Leeward's Judgment is of no practical value. AUA would prefer to avoid wasting time, money, and judicial resources on such an appeal. In light of Leeward's exiguous financial condition and prior efforts to enforce the First Judgment, however, AUA currently has no choice but to pursue the appeal.

AUA respectfully requests an expedited briefing schedule to assure that the preliminary relief it has requested – either an attachment of the First Judgment pursuant to C.P.L.R. Articles 62 and 75 or a preliminary injunction against enforcement of the First Judgment in violation of the Stay Agreement – is in place before the determination of the AUA Appeal terminates the stay of the First Judgment pending appeal, thereby preventing any possibility that Leeward, if the AUA Appeal terminates adversely to AUA, enforces the First Judgment before this Court decides whether to enforce the Second Award in this action. AUA proposes that Leeward's response be due within 10 days of filing, or February 27, and AUA's reply on March 6.

I have consulted counsel for Leeward, who do not consent to a briefing schedule more expedited than that provided in Local Civil Rule 6.1(b).

Respectfully submitted,

s/ James M. Hirschhorn

James M. Hirschhorn

JMH:mb